

BEFORE THE  
PUBLIC SERVICE COMMISSION OF WISCONSIN

Annual Reports for the Year Ended December 31, 2003, Filed by  
Interexchange Carriers and Other Selected Entities on a Confidential Basis

RE: PSC Control No. 30651

Annual Reports for the Year Ended December 31, 2003, Filed by  
Commercial Mobile Radio Service Providers on a Confidential Basis

RE: PSC Control Nos. 30655, 30657, 30659, 30687, 30688, 30820, and 30888

Alternative Telecommunications Utility-Other Telecommunications  
Provider Annual Reports for the Year Ended December 31, 2003, Filed by  
Competitive Local Exchange Carriers and Video Distance Learning Providers  
on a Confidential Basis

RE: PSC Control Nos. 30835, 30836, 30837, 30838, 30839, 30844, 30845, and 30894

Annual Reports for the Year Ended December 31, 2003, Filed by Alternative  
Telecommunications Utility-Telecommunications Resellers on a Confidential Basis

RE: PSC Control Nos. 30647 and 30648

**CONFIDENTIALITY DETERMINATION**

**Introduction**

On September 23, 2004, the Commission issued documents entitled: “Information Regarding Confidential Filings” concerning the 2003 Interexchange Carriers and Other Selected Alternative Telecommunications Utility-Other Telecommunications Provider Entities (ARW), Commercial Mobile Radio Service Provider (CMR), and Alternative Telecommunications Utility-Telecommunications Reseller (RES) annual reports. On October 5, 2004, the Commission issued a document entitled: “Information Regarding Confidential Filings”

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concerning the 2003 Alternative Telecommunications Utility-Other Telecommunications Provider (OTH) annual report. The documents detailed the filing process associated with the respective 2003 annual reports<sup>1</sup> as well as previous confidentiality rulings concerning such annual reports.<sup>2</sup>

On various dates from April 1, to June 11, 2004,<sup>3</sup> the following entities (collectively 18 companies) submitted written applications seeking confidential treatment (and in most cases trade secret status) of certain information in their 2003 annual reports.

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<sup>1</sup> The September 23, 2004, documents detailed that the 2003 ARW, CMR, or RES annual reports could be filed using one of two procedures: 1) File the entire report on a public basis using the Web-based annual report application; or 2) Submit a request for confidential handling of data, in accordance with Wis. Admin. Code § PSC 2.12, in conjunction with a manual filing of the report. Annual report preparers were instructed to contact Commission staff concerning the particulars associated with a manual filing for a 2003 ARW, CMR, or RES annual report.

The October 5, 2004, document detailed that the 2003 OTH annual report could be filed using one of two procedures: 1) File a portion (e.g., Miscellaneous and Nonregulated Revenues detail on pp. 14-15, Operating Revenues, and certain items on p. 19, Central Office Data-End of Year) of the report on a confidential basis using the annual report program's e-mail capabilities; or 2) Submit a request for confidential handling of additional data, in accordance with Wis. Admin. Code § PSC 2.12, in conjunction with a manual filing of the report. Annual report preparers were instructed to contact Commission staff concerning the particulars associated with a manual filing for a 2003 OTH annual report.

<sup>2</sup> The ARW, CMR, and RES documents noted that on April 21, 2004, the Commission granted confidential treatment and, where claimed, trade secret status to selected portions of companies' 2002 ARW, CMR, and RES annual report filings. The OTH document noted that on April 30, 2004, the Commission granted confidential treatment and, where claimed, trade secret status to selected portions of companies' 2002 OTH annual report filings.

The ARW, CMR, OTH, and RES documents stated that in 2002, nine court cases were filed concerning previous manually-filed annual reports. The nine cases were subsequently consolidated into two cases. One court case resulted in a decision favorable to the Commission's determinations; the other case resulted in an adverse decision. In a Confidentiality Determination dated May 11, 2004, the Commission granted confidential treatment and, where claimed, trade secret status to selected portions of 2001 ARW, CMR, OTH, and RES manually-filed annual reports.

<sup>3</sup> Subsequent to June 11, 2004, manual filings associated with 2003 annual reports were accomplished, in part, via the Commission's Electronic Regulatory Filing (ERF) System located at [http://psc.wi.gov/a\\_erf\\_public/default.aspx](http://psc.wi.gov/a_erf_public/default.aspx). Confidentiality determinations associated with these 2003 annual report filings were addressed via ERF. It is anticipated that confidentiality determinations associated with future annual report filings will also be addressed via this system.

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Utility No.	Utility Name	Electronic Regulatory Filing (ERF) Control No.	Filing Date	Report Type
15	MCImetro Access Transmission Services, LLC	30836	May 20, 2004	OTH
265	AT&T Communications of Wisconsin I, L.P.	30837	May 20, 2004	OTH
266	AT&T Wireless Services of Minnesota, Inc.	30659	April 1, 2004	CMR
3258	MCI WorldCom Network Services, Inc.	30651	April 1, 2004	ARW
3751	Enventis Telecom, Inc.	30839	May 20, 2004	OTH
3775	MCI WorldCom Communications, Inc.	30835	May 20, 2004	OTH
4015	Navigator Telecommunications, LLC	30894	June 11, 2004	OTH
5837	TCG Milwaukee, Inc.	30838	May 20, 2004	OTH
5912	Time Warner Telecom of Wisconsin, L.P.	30845	May 21, 2004	OTH
7039	TTI National, Inc.	30648	April 1, 2004	RES
7101	Telecom USA	30647	April 1, 2004	RES
7199	Globalcom, Inc.	30844	May 21, 2004	OTH
8029	TeleCorp Communications, Inc.	30655	April 1, 2004	CMR
8155	Milwaukee SMSA Limited Partnership	30688	April 2, 2004	CMR
8161	Madison SMSA Limited Partnership	30687	April 2, 2004	CMR
8211	VoiceStream PCS II Corporation	30820	May 12, 2004	CMR
8212	AT&T Wireless PCS, LLC	30657	April 1, 2004	CMR
8286	VoiceStream of Minneapolis, Inc.	30888	June 8, 2004	CMR

This confidentiality determination is made pursuant to the Commission's jurisdiction under Wis. Stat. §§ 196.02(1), 196.14, and other provisions of Wis. Stat. ch. 196 and Wis. Stat. §§ 19.32-.39, as may be pertinent hereto, the Commission's November 21, 2000, order delegating confidential handling determinations, and Wis. Admin. Code § PSC 2.12.

**Findings of Fact**

1. All of the 18 above-referenced companies are telecommunications providers which are required to file a 2003 annual report with the Commission. The statutory filing date for the annual report covering 2003 calendar year operations was April 1, 2004.<sup>4</sup>

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<sup>4</sup> Due to the delay in the release of the 2003 OTH annual report program, the due date for the 2003 OTH annual report was extended to May 3, 2004.

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2. The above requests for confidential handling concern portions of 2003 annual reports which individually became Commission records, within the meaning of Wis. Stat. § 19.32(2).

3. Each requester filed affidavits in support of the requests claiming that the records, if released, would aid a competitor of a public utility (or telecommunications provider) in competition with the public utility (or telecommunications provider), as provided under Wis. Stat. § 196.14, and, in most cases, constitute trade secrets, as defined in Wis. Stat. § 19.32(2).

4. Pursuant to Wis. Admin. Code § PSC 2.12(6), the Commission has confidentially handled the records pending this determination and will continue to confidentially handle the records after the date of this determination.

5. The records contain information which derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

6. The records contain information that would aid a competitor of the respective companies in competition with the requesters.

### **Conclusions of Law**

1. There is a reasonable basis to conclude that the records contain information which would aid a competitor of a public utility (or telecommunications provider) in competition with the public utility (or telecommunications provider), within the meaning of Wis. Stat. § 196.14.

2. There is a reasonable basis to conclude that in situations where a request for trade secret status was made, the records contain trade secrets within the meaning of Wis. Stat. § 134.90(1)(c).

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**Order**

WHEREFORE, confidential treatment of additional information requested by the 18 companies in their 2003 annual reports is **granted**. Trade secret status for such information under Wis. Stat. §§ 19.36(5) and 134.90(1)(c), as claimed by most of the 18 companies, is likewise **granted**. The Commission reiterates the notation contained in its October 5, 2004, Information Regarding Confidential Filings document that the 2003 OTH annual report program allows confidential treatment to selected information contained on the Operating Revenues (pp. 14-15) and Central Office Data-End of Year (p. 19) schedules in the now-filed 2003 OTH annual reports.

This confidentiality determination is not a final determination under the Public Records law; it is the Commission's decision for purposes of managing its files. This confidentiality determination does not prejudice the right of any person to submit a public records request to inspect the contents of the filings subject to this determination.

This order is effective upon mailing.

Dated at Madison, Wisconsin, October 7, 2004

For the Commission:

/s/ Gary A. Evenson  
Gary A. Evenson  
Administrator  
Telecommunications Division

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See attached Notice of Appeal Rights

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Notice of Appeal Rights

Notice is hereby given that a person aggrieved by the foregoing decision has the right to file a petition for judicial review as provided in Wis. Stat. § 227.53. The petition must be filed within 30 days after the date of mailing of this decision. That date is shown on the first page. If there is no date on the first page, the date of mailing is shown immediately above the signature line. The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

Notice is further given that, if the foregoing decision is an order following a proceeding which is a contested case as defined in Wis. Stat. § 227.01(3), a person aggrieved by the order has the further right to file one petition for rehearing as provided in Wis. Stat. § 227.49. The petition must be filed within 20 days of the date of mailing of this decision.

If this decision is an order after rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not an option.

This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

Revised 9/28/98